

REMARKS

The Office Action of August 25, 2005 presents the examination of claims 17-46. Claims 24-30 are indicated as allowed. Claims 18, 23, 31-38, 41-43 and 46 are objected to as dependent upon a rejected base claim but allowable if rewritten into independent form. Claims 17, 19-22, 39, 40, 44 and 45 are rejected as being unpatentable over Kokal (US 3,959,881).

Rejection over Kokal '881

Claims 17, 19-22, 39, 40, 44 and 45 stand rejected under 35 U.S.C. § 102(b) as lacking novelty over Kokal '881. Claims 20-22, 40 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kokal '881.

Claim 17 has been amended to incorporate the limitations of allowable claim 18 (thereby effectively rewriting claim 18 into independent form). Accordingly, all of claims 17 and 19-45 should now be found allowable.

The original claim 17 has been maintained as new claim 47. Applicants submit that the rejection of claim 17 (now 47) as lacking novelty over Kokal '881 is inapposite and should be withdrawn.

Careful reading of Kokal '881 shows that the diagnostic image is formed on the teeth of the subject. See, e.g. col. 3, lines 6-8 of the reference. On the other hand, the present composition is one in which the support material itself is marked ("... presents the diagnostic result by signal development in or upon the surface of the support material or by binding of a detectable agent to the support material.") Thus, the present invention as described in claim 47 is distinct from what is disclosed by Kokal '881 and this rejection should not be applied to new claim 47.

The favorable action of withdrawal of the standing rejections and passage of the application to allowance and issue is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell (Reg. No. 36,623) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Dated: November 23, 2005

Respectfully submitted,

By Mark J. Nuell
Mark J. Nuell, Ph.D.
Registration No.: 36,623
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Rd
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant